

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Amateur Radio Station License of |) | File No. 0001387567 |
| Mr. William D. Willard to Modify the |) | |
| Call Sign of Amateur Station N5BU |) | |

MEMORANDUM OPINION AND ORDER

Adopted: January 29, 2004

Released: January 30, 2004

By the Chief, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau:

1. On August 8, 2003, the Licensing and Technical Analysis Branch (Branch) of the former Public Safety and Private Wireless Division, Wireless Telecommunications Bureau¹ granted the captioned application, which requested that the call sign N5BU be assigned to the Amateur Radio Station of Mr. William D. Willard (Willard) as a vanity call sign. Based on information recently received by Commission staff, it appears that the call sign N5BU was made available under the vanity call sign system as a result of a defective cancellation of the license held by Mr. William B. Sorsby (Sorsby). To correct this error, we propose to modify Willard's amateur radio station license to show the call sign KB5U, which was the call sign assigned to Willard's amateur station prior to the grant of the captioned application.

2. By way of background, in 1976, the call sign N5BU was assigned to Sorsby's station. Most recently, the license was due to expire on October 18, 2004. On December 13, 1999, the Commission received requests to update the information for the license to reflect new contact information.² Specifically, Sorsby's address and telephone number were replaced with those of Dwana C. Peters (Peters) of Aircraft Guaranty Title, LLC (AGT), the licensee of Aircraft Station 5BU. Apparently, when AGT associated its FCC Registration Number (FRN) with Call Sign 5BU, it erroneously also associated its FRN with Call Sign N5BU.³ On July 10, 2001, AGT filed an application to cancel the license for Call Sign N5BU,⁴ and this application

¹ The Commission reorganized the Wireless Telecommunications Bureau effective November 13, 2003, and the relevant duties of the Public Safety and Private Wireless Division were assumed by the Public Safety and Critical Infrastructure Division. *See* Reorganization of the Wireless Telecommunications Bureau, *Order*, 18 FCC Red 25414, 25414 ¶ 2 (2003).

² File Nos. 0000057075, 0000057122, 0000057167, 0000057212, 0000057257, 0000057303, and 0000057348 (filed Dec. 13, 1999).

³ This appears to have resulted from confusion between the aircraft station call sign and the aircraft's registration marking (or "N number"), because aircraft stations are permitted to identify themselves by their call sign or by the N number, omitting the prefix letter N. *See* 47 C.F.R. § 87.107(a)(3).

⁴ File No. 0000518736 (filed July 10, 2001).

was granted on July 11, 2001. Because the license for amateur station N5BU was cancelled on July 11, 2001, the call sign became available for assignment to the amateur station of any Amateur Extra Class licensee on July 12, 2003.⁵ Willard filed the captioned application requesting that the call sign N5BU be assigned to his amateur radio station on July 21, 2003, and the Branch granted the application on August 8, 2003. Based on a review of the Commission's licensing records, however, we conclude that the call sign N5BU was not properly available for assignment by the vanity call sign system on July 12, 2003, because Peters was not authorized to request cancellation of the license for call sign N5BU. To correct this error, we propose to exchange N5BU with the call sign previously assigned to Willard's amateur radio station, KB5U.

3. We believe that Section 316(a)(1) of the Communications Act of 1934, as amended (the Act), provides the appropriate vehicle for resolving this matter.⁶ Section 316(a) permits the Commission to modify a station license if the action will promote the public interest, convenience, and necessity.⁷ In this connection, we note that the proposed modification would serve the public interest by ensuring that a licensee is not harmed by having his or her license cancelled by an individual who is not eligible to cancel that license.

4. In accordance with Section 97.27(b) of the Commission's Rules,⁸ we will not issue a modification order until Mr. Willard has received notice of our proposed action and has had an opportunity to file a protest. To protest the modification, Willard must, within thirty days of the release date of this *Memorandum Opinion and Order*, submit a written statement with sufficient evidence to show that the modification would not be in the public interest. The protest must be filed with the Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., Room TW-A325, Washington, DC 20554.⁹ If no protest is filed, Willard will have waived his right to protest the modification and will be deemed to have consented to the modification.

5. ACCORDINGLY, IT IS PROPOSED, pursuant to Sections 4(i) and 316 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 316, and Sections 1.87 and 97.27 of the Commission's Rules, 47 C.F.R. §§ 1.87, 97.27, that the Amateur Radio Station license of William D. Willard BE MODIFIED by changing the call sign from N5BU to KB5U.

⁵ See 47 C.F.R. § 97.19(c)(1).

⁶ 47 U.S.C. § 316(a)(1).

⁷ *Id.*

⁸ 47 C.F.R. § 97.27(b).

⁹ The address for FCC locations should be used only for documents filed by United States Postal Service first-class mail, Express Mail, and Priority Mail. Hand-delivered or messenger-delivered documents for the Commission's Secretary are accepted only at our new location at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service, Express Mail, and Priority Mail) should be addressed for delivery to 9300 East Hampton Drive, Capitol Heights, MD 20743. See FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, *Public Notice*, 16 FCC Rcd 22165 (2001).

6. IT IS FURTHER ORDERED that this *Memorandum Opinion and Order* shall be sent by certified mail, return receipt requested, to William D. Willard, 6306 Maplefield Drive, Fort Smith, AR 72916.

7. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATION COMMISSION

D'wana R. Terry
Chief, Public Safety and Critical Infrastructure
Division
Wireless Telecommunications Bureau

